



**Missouri Court of Appeals**  
**Southern District**

**Division One**

SHAWN WILLIAM BRANTLEY, a/k/a )  
SEAN WILLIAM BRANTLEY, )  
 )  
Movant-Appellant, )  
 )  
vs. )  
 )  
STATE OF MISSOURI, )  
 )  
Respondent-Respondent. )

No. SD30868

**Filed: April 20, 2012**

APPEAL FROM THE CIRCUIT COURT OF CAMDEN COUNTY

Honorable Kenneth M. Hayden, Circuit Judge

**REVERSED AND REMANDED**

Shawn William Brantley, a/k/a Sean William Brantley (“Movant”) appeals from the motion court’s denial of his motion for post-conviction relief pursuant to Rule 24.035.<sup>1</sup> Movant claims plea counsel was ineffective in failing to provide him with discovery in time for him to make a knowing and intelligent decision to plead guilty to a single count of a three-count information pursuant to a plea offer that subsequently was withdrawn, and that ineffectiveness prejudiced him when he subsequently waived his right to a trial and pled guilty to two counts of the three-count information pursuant to a

<sup>1</sup> All rule references are to Missouri Court Rules (2011), unless otherwise specified.

later and less favorable plea offer. Following an evidentiary hearing, the motion court concluded that the prejudice attributable to pleading guilty pursuant to a less favorable plea agreement is not cognizable prejudice under Rule 24.035 and cited our opinion in *Beach v. State*, 220 S.W.3d 360 (Mo. App. S.D. 2007).

On August 2, 2011, this Court issued an opinion in this cause. On April 3, 2012, the Supreme Court of Missouri sustained an application for transfer to that court, and also ordered the cause retransferred to this Court for reconsideration in light of *Missouri v. Frye*, 132 S. Ct. 1399 (2012). At the time of this appeal, the United States Supreme Court had not issued its opinion in *Frye*. In *Frye*, the Supreme Court held that a constitutional right to counsel includes a claim of ineffective assistance of counsel in the consideration of plea offers that lapse or are rejected. Because the motion court did not address Movant's claim, we reverse and remand for the motion court to now consider that claim and make findings of fact and conclusions of law in accordance with the principles announced in *Frye*.

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Nancy Steffen Rahmeyer, Judge

Burrell, P.J., Lynch, J., concur.

Attorney for Appellant -- Craig A. Johnston

Attorneys for Respondent -- Chris Koster, Shaun J. Mackelprang

Division I